THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.20185 of 2007

Dated: 27.12.2007

Between:

Smt Meena Devi Goyal. .. Petitioner.

And

The State of Andhra Pradesh
through its Secretary Revenue-III,
Secretariat, Hyderabad
and others.

.. Respondents.

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WRIT PETITION No.20185 of 2007

ORDER:

Heard Sri Mayur representing Sri Vijaysen Reddy, learned counsel representing the writ petitioner, learned Government Pleader for Revenue representing respondents 1 and 2 and Sri Jagan Mohan Reddy, learned counsel representing respondents 3 and 4.

2. The 2nd respondent filed the counter affidavit.

3. At the request of the counsel on record, the writ petition itself is being disposed of finally.

4. The writ petition is filed for a Writ of Mandamus declaring the action of the respondents in refusing to register the agreement of sale-cum-GPA, dated 05.09.2007, as illegal, arbitrary and unconstitutional and consequently direct the 2nd respondent to register the document of agreement of sale-cum-GPA, dated 05.09.2007.

5. In the affidavit filed in support of the writ petition, it is averred that the petitioner entered into an agreement of sale-cum-General Power of Attorney with M/s Mohd. Babu Miya and Mohd. Rahmatullah, who are the sons of late Shamsher Khan, R/o. 3-26, Nagireddyguda, Moinabad, Ranga Reddy District in respect of land admeasuring 33 guntas out of the total extent of land admeasuring Ac.2-16 guntas in Sy.No.415, 416 and 420 of Manchverla (V), Rajendranagar (M), Ranga Reddy District, dated 05.09.2007, by paying the entire agreed sale

consideration of Rs.30,00,000/-. The said Mohd. Babu Miya and Mohd. Rahmatullah are the owners of land and issued pattedar pass book under the provisions of R.O.R. Act. It is also stated that the petitioner presented the said agreement of sale-cum-GPA for registration, before the 2nd respondent, by paying the required stamp duty and registration charges for Rs.38,280/- vide bank challan No.35584 dated 05.09.2007 at State Bank of Hyderabad, Rajendranagar. Further, it is stated that the 2nd respondent refused to entertain the document for registration on the ground that M/s Smt.C.Latha Reddy and another have obtained interim suspension of the order of mutation granted in favour of the petitioner's vendor, by the MRO, in file No.E/4781/1998, dated 20.07.1999, and pattedar pass book No.195804. The suspension order dated 20.08.2007 in proceedings No.C/3018/2007 was furnished to the petitioner by the 2nd respondent.

6. Further, in the affidavit, it is averred that the action of the 2nd respondent in refusing to entertain the registration of agreement of sale-cum-GPA dated 05.09.2007 presented by the petitioner is illegal, arbitrary and unconstitutional. Under Rule 58 of the A.P.Rules under the Registration Act, 1908 (hereinafter for short referred to as "the Rules" for the purpose of convenience), the registering authority does not have any authority to decide the title of the parties. The registration of a document can be refused only if there is bar under statute for alienation of the lands, sought to be sold, as in the case of assigns land, government land etc., which are notified under Section 22-A of the Amended Act. The registering authority cannot refuse to entertain a document for registration on the ground of pendency of civil dispute. The registering authority has got limited jurisdiction in the matter and mainly its duty is to collect requisite stamp duty and registration charges. Any adverse decision in the appeal said to have been

preferred by the rival claimants under Section 5(5) of the R.O.R. Act will bind vendor and consequently the petitioner. The registration of the document will not create any new right in favour of the petitioner. Despite registration, the document will lose its significance, if otherwise, the petitioner's vendor is held to be not having title to the land, as it is fundamental principle of law that no person can convey a better right than what he has. It is further stated that if the petitioner waits until conclusion of the appeal proceedings before the R.D.O., then for no fault of him, he has to pay more stamp duty and registration charges, if there is any enhancement in the market value of the property, for which there is proposal by the Government in near future. As the petitioner's transaction is in accordance with law and there is no embargo for registration of his agreement of sale, the 2nd respondent is duty bound to register the document. The 2nd respondent is refusing to register the document for extraneous consideration. If interim directions are not issued to the 2nd respondent to register the agreement of sale-cum-GPA, dated 05.09.2007, the petitioner will suffer irreparable loss and injury. Thus, in such circumstances, the petitioner, having no other alternative remedy, approached this Court by invoking the jurisdiction of this Court under Article 226 of the Constitution of India.

7. In the counter affidavit filed by the 2nd respondent-Sub-Registrar, Registration and Stamps Department, Rajendranagar, Ranga Reddy District, several averments had been denied. It is stated that no document was presented to this respondent for the purpose of registration. However, an enquiry was made by some one with regard to the registrability of the land in Survey No.415 and 416 of Manchirevula village, Rejendranagar Mandal and he was informed of the objection and also a copy of the same was given to the person who came for enquiry. It is also averred that this respondent received a

representation by one C.Latha Reddy, w/o. C.R.Reddy, and one Gayatri, w/o. Kesi Reddy, bringing to his notice that they are the absolute owners of the land in the survey numbers and they are the owners of it and further they brought to his notice the order No.C/3018/2007, dated 20.08.2007, of the Revenue Divisional Officer, Chevella Division, Ranga Reddy District to the effect that the pass books issued in favour of Mohd. Babumiya are suspended pending disposal of the appeal before the authority. Further, it is stated that as per Rule 58 of the Rules, the Sub-Registrar is expected to consider the objections raised on any of the grounds mentioned thereunder. However, in the instant case, since no document was presented for registration, there was no occasion for this office to verify the objections received vis-a-vis the agreement of sale-cum-G.P.A. purported to have been executed by one Mohd. Babumiya in favour of the petitioner.

8. Rule 58 of the A.P.Rules under the Registration Act, 1908 reads as hereunder:-

> "It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:
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> (a) that the parties appearing or about to appear before him are not the persons they profess to be;
> (b) that the document is forged;
> (c) that the person appearing as a representative, assign or agent, has no right to appear in that capacity;
> (d) that the executing party is not really dead as

alleged by the party applying for registration;
or

(e) that the executing party is a minor or an idiot
or a lunatic."

9. The applicability or otherwise of invoking Rule 58 of the Rules aforesaid need not be considered in the light of the specific stand taken in the counter affidavit that no document as such had been presented.

10. In the light of the same, the writ petition is disposed of giving liberty to the petitioner to move appropriate writ petition at the appropriate stage. No order as to costs.

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(P.S.NARAYANA,J)

Dt.27.12.2007
v v